



City of Raymore, Missouri

Unified Development Code

Declaratory Ruling Book

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Declaratory Ruling #1

Date Issued: May 3, 2010

Question/Issue: *What is the maximum size allowed for a subdivision entrance sign and how many signs are allowed per subdivision?*

Applicable Code Section: Section 435.060 (F)

Section 435.060 Additional Standards for Specific Sign Types

F. Subdivision Entrance Signs

Subdivision entrance signs may be located at entrances to the subdivision and shall be within a sign easement, common area, or private property. The developer or property owners association is responsible for the maintenance and upkeep of the identification signs.

Location of signs shall be subject to the provisions of this code as well as other applicable ordinances. Such signs must be monument signs.

Ruling:

1. The zoning district where the sign is to be located determines the maximum copy area and sign height allowed. Subdivision entrance signs are regulated as freestanding signs.
2. Two (2) signs are allowed at each entrance to the subdivision.
3. Sign shall not be located in any intersection visibility triangle.
4. Decorative features can be larger than the sign copy area but shall not project into the intersection visibility triangle.

Section 465.040 (B) (5) of the Unified Development Code indicates the Community Development Director has the power and duty to render interpretations of the Unified Development Code. Accordingly, the Community Development Director has issued Declaratory Ruling #1 as the official interpretation of Section 435.060 (F) of the Unified Development Code.

Issued this 3rd day of May, 2010.



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #2

Date Issued: January 22, 2018

Question/Issue: *Are chickens allowed to be raised in the City?*

Applicable Code Sections:

1. *Section 405.040 Agricultural and Residential Districts; Additional Regulations*

Section 405.040 Additional Regulations

D. Keeping of Animals *(Amendment 26 – Ordinance 2018-008 1.22.18)*

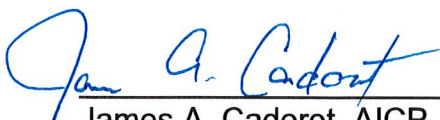
1. Cattle, cows, horses, sheep, goats and similar animals are permitted in the A and RE districts only.
2. Chickens and similar fowl are permitted in the A and RE districts, and in the R-1 district upon properties of at least three acres in size.
3. In the RE and R-1 (3-acre minimum lot size) district, maximum number of animals permitted per grazing acre, excluding building coverage, ponds and yard area around the principal dwelling, are:
 - a. 1 head of cattle; or
 - b. 2 sheep; or
 - c. 2 goats; or
 - d. 2 horses.

Limits for other animals not enumerated herein shall be determined based upon type or size of animal.

Ruling:

1. Chickens are allowed on property zoned "A" Agricultural or "RE" Rural Estate.
2. Chickens are allowed on property zoned "R-1" Single-Family Residential provided the property is at least three (3) acres or greater in size.

Issued this 22nd day of January, 2018.



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #3

Date Issued: May 12, 2010/Revised March 18, 2011/
Revised August 26, 2013

Question/Issue: *Is a four (4) foot privacy fence allowed in a front yard setback area?*

Applicable Code Sections:

1. *Section 485.010: Definitions*

Fence	A free standing structure of metal, masonry, composition or wood or any combination thereof resting on or partially buried in the ground and rising above the ground level, and used for confinement, ornamental, screening or partition purposes.
Fence, Chain-link	An open mesh fence made entirely of woven wire.
Fence, Decorative	An open fence, other than chain link, that is no more than 66% opaque and is intended to decorate, accent, or frame a feature of the landscape. Decorative fences include but shall not be limited to split rail, picket, wrought iron, and similar open fences.
Fence, Privacy	A solid fence constructed of materials which creates an opaque wall or screen.
Fence, Security	A fence intended to guard property against unauthorized entry, and to protect goods and products from theft and other unauthorized handling. Security fences are often made of wrought iron or chain link, and may incorporate additional security features such as barbed wire.

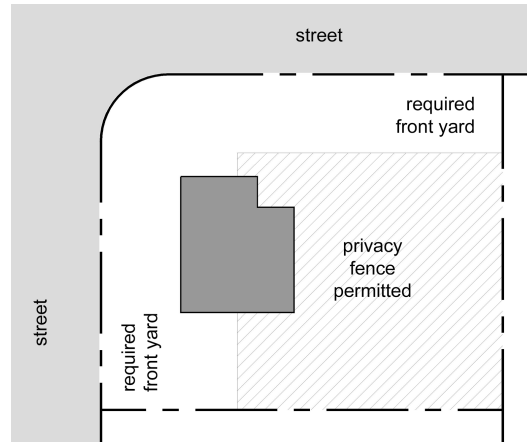
2. *Section 440.030: Fences*

A. Residential Districts *(Amendment 13 – Ordinance 2012-074 9.24.12) (Amendment 16 – Ordinance 2013-056 8.26.13)*

1. In residential districts, the following standards apply:

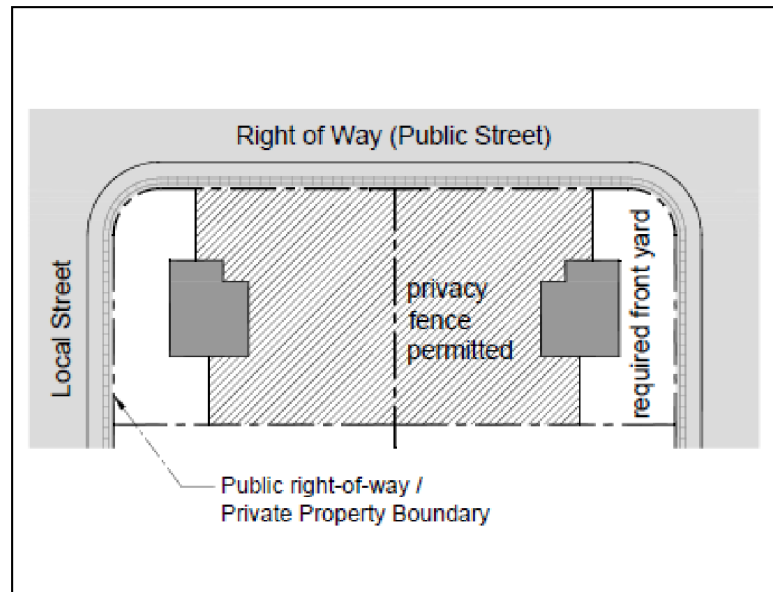
Type	Maximum Height	Permitted Location
Privacy fences, walls or hedges	6 feet	in the side and rear yard provided no portion extends within ten (10) feet of the front corner of the house.
Chain link fences	6 feet	in the side and rear yard provided no portion extends within ten (10) feet of the front corner of the house; on any portion of a lot in an RE district
Decorative fences	4 feet	on any portion of the lot
Decorative fences	6 feet	in the side and rear yard provided no portion extends within ten (10) feet of the front corner of the house; on any portion of a lot in an RE district
Barbed wire	n/a	prohibited
Electric fences (above ground)	n/a	allowed in RE districts only on any portion of the lot

2. On corner lots, a privacy fence, chain link fence, decorative fence, wall or hedge may be constructed or planted to a maximum height of six feet up to the front yard setback line in the rear yard of the structure. For the purposes of this Section, the rear yard is defined as the side of the structure opposite the front door.



If the following conditions apply to a corner lot, then the privacy fence, chain link fence, decorative fence, wall or hedge may be installed to a height of six feet up to the property line in the rear yard of the structure as illustrated below:

- a. If the rear yard of a corner lot is adjacent to the rear yard of another corner lot; and
- b. The front of each home on each lot faces in opposite directions; and
- c. There is no driveway to either home from the street adjacent to the side yard of both lots.



3. On double-frontage lots whose rear yard abuts an arterial, collector or local street, a privacy fence, chain link fence, decorative fence, wall or hedge may be constructed or planted to a maximum height of six feet on the rear property line provided the fence, wall or hedge does not encroach into a platted landscape buffer or easement and there is no direct access to the arterial or collector road.
4. A decorative fence constructed to a maximum height of six feet may be erected along an arterial, collector or local road as an integrated feature of an overall subdivision or development design. Said fence may enclose the entire perimeter of the subdivision, provided there are no individual driveway openings through the fence.

Ruling:

1. Decorative fences, by definition, must be less than 66% opaque.
2. Decorative fences, with a maximum height of four (4) feet, are permitted on any portion of a lot. A decorative fence between the height of four (4) and six (6) feet is only permitted in the side and rear yard provided no portion extends within ten (10) feet of the front corner of the house. Exception is for agricultural districts where a decorative fence is allowed on any portion of the lot and a privacy fence is permitted on any portion of the lot provided a minimum setback of 50 feet from all street right-of-way lines is maintained.
3. A privacy fence is by definition a solid fence that creates an opaque wall. A privacy fence would be greater than 66% opaque and is likely 100% opaque.

Section 465.040 (B) (5) of the Unified Development Code indicates the Community Development Director has the power and duty to render interpretations of the Unified Development Code. Accordingly, the Community Development Director has issued Declaratory Ruling #2 as the official interpretation of Section 405.040 (D) of the Unified Development Code.

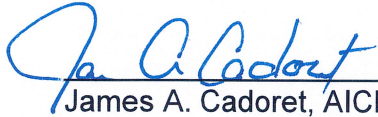
Official Interpretation:

A four (4) foot privacy fence is not permitted in the front yard setback area of any residential zoned property. Only a decorative fence is permitted in the front yard setback area, and a decorative fence must be less than 66% opaque.

Initially issued on the 12th day of May, 2010.

Revised the 18th day of March, 2011

Revised the 27th day of August, 2013



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #4

Date Issued: July 30, 2010

Question/Issue: Is a kiosk for movie rental allowed to be installed or operated on the exterior of a building?

Declaratory Ruling #4 was revoked on February 28, 2011 due to code language change in Section 420.050D8 (UDC amendment #8).

Declaratory Ruling #5

Date Issued: September 17, 2010

Question/Issue: *Does an adjustment to a lot line require a subdivision plat?*

Applicable Code Sections:

Chapter 445: Subdivision Design and Improvements

Section 445.010: General

C. Exemptions; Activities that do not Constitute a Subdivision

The following activities do not constitute a subdivision and are expressly exempt from the design and improvement standards of this chapter:

1. the division or further division of land into lots or parcels, each of which contains more than 40 acres, where no new streets or easements of access are created;
2. **a transaction between owners of adjoining land that involves only a change in the boundary between the land owned by such persons, and does not create an additional lot or nonconformity;**
3. a conveyance of land or interest therein for use as right-of-way or other public utilities subject to State or Federal regulation, where no new lot is created;
4. a conveyance made to correct a description in a prior conveyance; and
5. any transfer by operation of law.

D. Subdivision Review and Approval

1. No plat of a land division may be accepted for recordation or recorded with the Recorder of Deeds until the Community Development Director has either:
 - a. certified in writing that the proposed land division does not constitute a subdivision; or
 - b. determined that the land division constitutes a subdivision and has been reviewed and approved in accordance with the applicable procedures of Section 470.090 through Section 470.150.
2. No subdivision or exempt land division may be executed solely by deed instrument. All applications for subdivisions or exempt land division must bear the signature of the owner of the property for which the application is being made.

Ruling:

1. An adjustment to a lot line, wherein a portion of an existing lot or tract of land is sold or transferred to the owner of an adjacent lot, is considered an activity that does not constitute a subdivision and is thus exempt from the

requirement of preparing a subdivision plat; provided the lot from which the land is taken remains in conformance with all of the requirements of the Unified Development Code, such as lot area, lot width, lot depth, setbacks of any existing structure upon the lot, and maximum building coverage.


2. A survey of the land area to be sold or transferred shall be prepared along with a legal description of the property to be transferred. The survey and legal description shall be submitted to the Community Development Director for review to determine the lot split is exempt in accordance with Section 445.010C of the Unified Development Code.
3. An application shall be submitted that includes the signature of the owner of the property from which the property is being transferred from and signature of the owner of the property to whom the property is being transferred to.
4. The Community Development Director shall review the application and submitted survey and legal description to determine the lot split is in fact exempt from the subdivision plat process. If an affirmative determination is made the Community Development Director shall approve the application with his/her signature for the record. Upon this approval the deed may be recorded.

Section 465.040 (B) (5) of the Unified Development Code indicates the Community Development Director has the power and duty to render interpretations of the Unified Development Code. Accordingly, the Community Development Director has issued Declaratory Ruling #5 as the official interpretation of whether an adjustment to a lot line requires a subdivision plat.

Official Interpretation:

An adjustment of a lot line that involves only a change in the boundary of land between property owners and does not create an additional lot or nonconformity does not constitute a subdivision and is exempt from the design and subdivision standards and the subdivision platting requirements of the Unified Development Code.

Issued this 17th day of September, 2010.



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #6

Date Issued: April 22, 2011

Question/Issue: *Can a fence be constructed in an easement?*

Applicable Code Sections:

Chapter 440: General Development and Performance Standards

Section 440.030: Fences

A. General Standards

The following standards apply to all fences in all districts:

2. Fence Location

- a. No fence shall be constructed within the sight triangle.
- b. Fences are permitted within a platted easement provided that:
 - (1) There are no plat restrictions prohibiting fences in an easement.
 - (2) The property owner removes the fence, or portion thereof, necessary for the City or utility company to gain access to the easement for maintenance purposes. Should the property owner fail to remove the fence sections located within the easement, the City or utility company may do so.
- c. No fence shall be installed or maintained within any drainage way, detention facility, or engineered swale which will create ponding on adjacent property, divert water onto the adjoining property, or impede drainage.

C. Residential Districts

- 3. On double-frontage lots whose rear yard abuts an arterial, collector or local street, a privacy fence, chain link fence, decorative fence, wall or hedge may be constructed or planted to a maximum height of six feet on the rear property line provided the fence, wall or hedge does not encroach into a platted landscape buffer or easement and there is no direct access to the arterial or collector road.

Ruling:

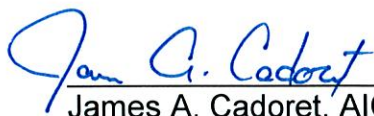
1. Fences are allowed to be constructed or installed within an easement under certain conditions:
 - a. There can be no plat restrictions prohibiting a fence within an easement.
 - b. The property owner must understand that the utility company or City has authority to full access to the use of the easement, including removal of the fence sections that cross through the easement. The utility company or City would not be responsible for re-installing the removed fence sections.
 - c. If a fence were to be constructed in a drainage easement than the fence must not be capable of blocking the flow of water or creating a dam or other restriction to the flow of water.
2. The Board of Adjustment only has authority to grant a variance from a requirement of the Unified Development Code. The Board has no authority to grant a variance to a plat restriction or plat requirement.
3. If a subdivision plat contains a requirement that a property owner wants to change or adjust, then a re-plat of the lot would be required. A re-plat would be reviewed in accordance with the subdivision requirements of the City of Raymore.

Section 465.040 (B) (5) of the Unified Development Code indicates the Community Development Director has the power and duty to render interpretations of the Unified Development Code. Accordingly, the Community Development Director has issued Declaratory Ruling #6 as the official interpretation of whether fence can be constructed within an easement.

Official Interpretation:

A fence is allowed to be constructed in an easement provided the requirements of Section 440.030 are complied with.

Issued this 22nd day of April, 2011.



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #7

Date Issued: May 26, 2011

Question/Issue: Where is the midpoint of a residential structure in relation to where a fence can be located?

Declaratory Ruling #7 was revoked on August 26, 2013 due to code language change in Section 440.030 (UDC amendment #16).

Declaratory Ruling #8

Date Issued: March 21, 2012

Question/Issue: *How much of a property can be covered in buildings and other man-made structures?*

Applicable Code Sections:

Chapter 485: Definitions

Section 485.010: General Definitions

Term	Definition
Accessory Building	A building that is subordinate in area, extent and purpose to the principal building and use on a lot and that is customarily used for a permitted accessory use.
Building	Any structure designed or intended for the enclosure, support, shelter or protection of persons, animals or property.
Building Coverage	See "Measurements and Exceptions " Section 485.020
Structure	Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, "structures" include buildings, walls, fences, signs, billboards, sheds, towers, and bins. For purposes of this chapter, central air-conditioning condensing units and similar cooling system apparatus, other than so-called "window" or "room" conditioners, will be considered as structures.

Section 485.020 Measurements and Exceptions

K. Building Coverage

Building coverage is to be measured as the percentage of lot area that is covered with principal and accessory buildings and above-grade structures, including garages, sheds, gazebos, covered decks, and covered porches. At-grade accessory structures such as driveways, patios, walkways, and other paved surfaces on a lot are not included in the calculation of maximum building coverage.

Chapter 405: Agricultural and Residential Districts

Section 405.030A Bulk and Dimensional Standards Table

	A	RE	RR	R-1A	R-1	R-1.5	R-2	R-3	R-3A	R-3B
Maximum Building Coverage (%) [2]	10	30	30	30	30	40	30	30	40	40

[2] Includes outbuildings and accessory buildings. (See also Section 420.050)

Section 420.050 Accessory Uses and Structures

A. General (*Amendment 8 – Ordinance 2011-9 2.28.11*)

All accessory uses and structures must meet the following requirements:

8. the total gross floor area of all accessory structures in all districts except RE and RR shall not exceed eight percent of the lot coverage. In the RE and RR districts, the 30 percent maximum area of building coverage includes all accessory structures and there is no maximum size limit for an accessory structure. In all zoning districts, there is no limit on the number of accessory structures allowed.

Chapter 430: Landscaping and Screening

Section 430.020 Landscaped Area Requirements

B. Where Required

All uses must provide and maintain a landscaped area as provided in this section. Landscaped areas may not include rights-of-way and accessory uses, and must be maintained as a permeable and uncovered surface that contains living material. No more than 20 percent of the required landscaped area may consist of porous non-living materials.

Use Type	Required Landscaped Area (% of Lot Area)
Detached single-family dwellings	50%
Attached single-family dwellings	30%
Two-family dwellings	30%
Multi-family dwellings	30%

Ruling:

1. The determination of how much of a property can be covered in buildings and other man-made structures depend upon the zoning designation and use of the property.
2. On an R-1 zoned property with a detached single-family dwelling you would begin with the requirement that 50% of the property must be in landscaping (permeable, uncovered surface). The remaining 50% of the property can then be covered as follows:
 - a. Maximum 30% of the lot can be covered in buildings and structures with impervious surfaces (combination of house; shed; pool; deck with roof or porch with roof). Accessory buildings can only cover 8% of the lot and the 8% is included in the 30% maximum coverage.

- b. Remaining 20%, plus any unused portion of the 30% of the maximum building coverage of the lot, can be covered in driveways, sidewalks, patios, decks without a roof and porches without a roof.
2. Since 50% of the property must be in permeable surface, then the remaining 50% can be covered with impermeable surfaces provided the maximum building coverage does not exceed 30%.
3. In certain zoning districts the percentage of the property that can be covered is greater than 50%. For example, In the R-2 zoning district, a minimum of 30% of the property must be in permeable surface, thus leaving 70% that can be covered in buildings and other man-made structures.
4. A deck without a roof or a porch without a roof is not an accessory structure but is classified as an impermeable surface.

Section 465.040 (B) (5) of the Unified Development Code indicates the Community Development Director has the power and duty to render interpretations of the Unified Development Code. Accordingly, the Community Development Director has issued Declaratory Ruling #8 as the official interpretation of how much of a property can be covered in buildings and other man-made structures.

Official Interpretation:

The determination of how much of a property can be covered in buildings and other man-made structures is a combination of the minimum amount of landscaped area required and the maximum amount of building coverage allowed. Once the minimum landscaped area is provided, the remainder of the property can be covered in buildings (up to the maximum building coverage allowed per the applicable zoning district) and other man-made structures.

Issued this 21st day of March, 2012.



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #9

Date Issued: June 18, 2012

Question/Issue: *Is a mobile home allowed in the City of Raymore?*

Applicable Code Sections:

Chapter 485 Definitions

Section 485.010 General Definitions

Term	Definition
Manufactured Home	<p>A structure which is subject to the Federal Manufactured Home Construction and Safety Standards established pursuant to 42 U.S.C. § 5403, and constructed on or after June 15, 1976.</p> <p>With respect to Chapter 460, a manufactured home is defined as a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.</p>
Manufactured Home Residential-Design	<p>A manufactured home which satisfies the following additional criteria:</p> <ol style="list-style-type: none">1. minimum dimensions of 22 feet in width and 40 feet in length;2. the pitch of the roof of the manufactured home has a minimum vertical rise of four feet for each 12 feet of horizontal run and the roof finished with a type of shingle that is commonly used in standard residential construction in the City;3. all roof structures provide an eave projection of no less than 12 inches, exclusive of any guttering;4. the exterior siding consists of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of low luster white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the City;5. is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1987" (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, or poured concrete wall, unpierced except for required ventilation and access, is installed under the perimeter of the Residential-Design Manufactured Home;6. stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the building code and attached firmly to the primary structure and anchored securely to the ground; and7. has substantially the appearance of an on-site, conventionally built, single-family dwelling.

Chapter 405 Agricultural and Residential Districts

Section 405.020 Use Table

H. Use Standards

The “Use Standard” column in the use table provides a cross-reference to additional standards that apply to some uses, whether or not they are allowed as a permitted use, use subject to special conditions or conditional uses.

Use	A	RE	RR	R-1A	R-1	R-1.5	R-2	R-3	R-3A	R-3B	PR	Use Standard
RESIDENTIAL USES												
Household Living												
Manufactured Home Residential – Design	S	S	S	S	S	S	S	-	-	-	-	Section 420.010D

Chapter 420 Use Regulations

Section 420.010 Use-Specific Standards, Residential Uses

D. Manufactured Home Residential Design

A manufactured home of residential design shall comply with the following criteria:

1. minimum dimensions of 22 feet in width and 40 feet in length;
2. the pitch of the roof of the manufactured home has a minimum vertical rise of four feet for each 12 feet of horizontal run and the roof finished with a type of shingle that is commonly used in standard residential construction in the City;
3. all roof structures provide an eave projection of no less than 12 inches, exclusive of any guttering;
4. the exterior siding consists of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of low luster white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the City;
5. is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in “Manufactured Home Installations, 1987” (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, or poured concrete wall, unpierced except for required ventilation and access, is installed under the perimeter of the Residential-Design Manufactured Home;
6. stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the building code and attached firmly to the primary structure and anchored securely to the ground; and
7. has substantially the appearance of an on-site, conventionally built, single-family dwelling.

Ruling:

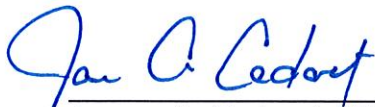
1. The term “mobile home” is no longer utilized to refer to a residential dwelling unit that is constructed in a factory. Manufactured housing is a term recognized in the Federal Manufactured Home Construction and Safety Standards that went into effect June 15, 1976 and is the term recognized by the Raymore Unified Development Code.
2. A manufactured home – residential design, defined in Section 485.010 of the UDC, is a use subject to special conditions in the A, RE, RR, R-1A, R-1, R-1.5, and R-2 zoning districts. These special conditions are listed in Section 420.010D.
3. If the special conditions of Section 420.010D are complied with, a manufactured home of residential design is permitted on any lot in the A, RE, RR, R-1A, R-1, R-1.5, and R-2 zoning districts.
4. A manufactured home is often not allowed by covenant restrictions established for a subdivision. It is important that a lot owner review any covenants established for the subdivision in which the lot is located prior to attempting to place a manufactured home on the lot.

Section 465.040 (B) (5) of the Unified Development Code indicates the Community Development Director has the power and duty to render interpretations of the Unified Development Code. Accordingly, the Community Development Director has issued Declaratory Ruling #9 as the official interpretation of whether a mobile home is allowed in the City.

Official Interpretation:

A “mobile home” is not allowed anywhere within the City of Raymore. A manufactured home that complies with the provisions of Section 420.010D of the UDC is allowed on a lot in the A, RE, RR, R-1, R-1A, R-1.5, and R-2 zoning districts.

Issued this 18th day of June, 2012.



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #10

Date Issued: June 18, 2012

Question/Issue: *Can a business that is not licensed or approved as an adult business have adult media or sexually oriented toys or novelties available?*

Applicable Code Sections:

Chapter 485 **Definitions**

Section 485.010 **General Definitions**

Term	Definition
Adult Media	Books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films, CD-ROMs or other devices used to record computer images, or other media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.
Sexually Oriented Toys or Novelties	<ol style="list-style-type: none">1. Instruments, devices or paraphernalia which either depict specified anatomical areas or are designed or marketed for use in connection with specified sexual activities. In determining whether an item is designed for marketed for use in connection with specified sexual activities, the following guidelines may be considered:<ol style="list-style-type: none">a. expert testimony as to the principal use of the item;b. evidence concerning the total business of a person or business, or a person or business establishment, and the type of merchandise involved in the business;c. national and local advertising concerning the use of the item;d. evidence of advertising concerning the nature of the business establishment;e. instructions, graphics or other material contained on the item itself or on the packaging materials for the item;f. the physical or structural characteristics of the item;g. the manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.2. Any person may request an interpretive ruling from the Chief of Police, or his or her designee, as to whether a particular item is considered by the City to be designed or marketed for use in connection with specified sexual activities. An application for an interpretive ruling shall be made in writing on a form provided by the Chief of Police, and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within 10 business days following submission of a completed application. The decision of the Chief of Police may be appealed to the City Council within 15 days following the date of the interpretive ruling by submitting a written notice of appeal to the City Clerk.

Chapter 420 Use Regulations

Section 420.030 Use-Specific Standards, Commercial Uses

B. Businesses with Adult Media or Sexually Oriented Toys or Novelties Available

1. Applicability

- a.** Any bookstore, media store, video store, theater or other retail store in which adult media constitutes more than 10 percent but not more than 40 percent of:

 - (1)** the store's inventory at any time;
 - (2)** the merchandise displayed for sale or rental at any time; or
 - (3)** the sales floor area of the business (not including store rooms, stock areas, bathrooms, or any portion of the business not opened to the public) at any time.
- b.** Any bookstore, media store, video store, theater, or other retail store, in which sexually oriented toys and novelties constitute more than five percent of:

 - (1)** the sales (including rentals), measured in dollars over any consecutive 90-day period;
 - (2)** the number of sales transactions, measured over any consecutive 90-day period;
 - (3)** the dollar value of all merchandise displayed at any time;
 - (4)** the merchandise displayed for sale at any time; or
 - (5)** the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) at any time.
- c. Prohibition of Public Display**
The owner or operator of a store to which this section applies shall have the affirmative duty to prevent the public display of adult media or sexually oriented toys or novelties at or within the portions of the business open to the general public.
- d. Display of Adult Media or Sexually Oriented Toys or Novelties**
Adult media or sexually oriented toys or novelties in a store to which this section applies shall be kept in a separate room or section of the store, which room or section shall:

 - (1)** not be open to any person under the age of 18;
 - (2)** be physically and visually separate from the rest of the store by an opaque wall or durable material reaching at least eight (8) feet high or to the ceiling, whichever is less;
 - (3)** be located so that the entrance to it is as far as is reasonably practicable from media or other inventory in the store likely to be of particular interest to children;

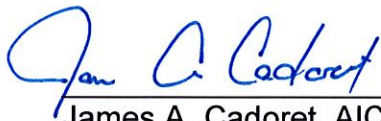
- (4) have access controlled by electronic or other means to provide assurance that persons under age 18 will not gain admission and that the general public will not accidentally enter such room or section; and
- (5) provide signage at the entrance stipulating that persons under 18 are not permitted inside.

Section 465.040 (B) (5) of the Unified Development Code indicates the Community Development Director has the power and duty to render interpretations of the Unified Development Code. Accordingly, the Community Development Director has issued Declaratory Ruling #10 as the official interpretation of whether a business that is not licensed or approved as an adult business is allowed to have adult media and sexually oriented toys or novelties available.

Official Interpretation:

A business is allowed to have adult media or sexually oriented toys or novelties available provided the provisions of Section 420.030B of the UDC are complied with.

Issued this 18th day of June, 2012.



James A. Cadoret, AICP
Community Development Director

Declaratory Ruling #11

Date Issued: June 2, 2021

Question/Issue: What discretion does the Development Services Director have in reviewing a building permit application, or reviewing a proposed change to an existing commercial or industrial site, to determine if an amendment to an approved site plan is required to be reviewed by the Planning and Zoning Commission?

Applicable Code Section:

Section 470.160 Site Plan Review

D. Procedure

1. Community Development Director Action

- a.** All site plans will be reviewed by the Development Services Director.
- b.** The Development Services Director has the authority to take final action (approve, conditionally approve or deny) on applications for:
 - (1)** developments that have an approved site plan on file where the application proposes to expand the existing use by less than 10 percent or 5,000 square feet, whichever is less; or
 - (2)** developments that have an approved site plan on file where the application proposes to modify signage, parking, landscaping or other minor feature and the proposed modifications will be in compliance with all requirements of this Code.
- c.** The Development Services Director must complete the review within 20 days of receiving a complete application.

Ruling:

1. All building permit applications submitted for existing commercial or industrial buildings are required to be reviewed by the Development Services Director ("Director").
2. Proposed changes to components of use of a commercial or industrial property including:
 - a. access drive - relocation of existing drive or proposed new drive
 - b. parking area - modification to drive aisles; drive-thru lanes; number of parking spaces
 - c. landscaping - decrease in landscaped area; removal of required trees and landscaping; removal of landscaped islands
 - d. screening - removal of required screening areas

are required to be reviewed by the Director.

3. A determination is made on whether the existing, or proposed, use is a legal, conforming use or a legal non-conforming use.
4. If the use is determined to be a legal, non-conforming use, the provisions contained in Chapter 475 of the Unified Development Code shall be considered in determining if the use and/or building can be modified, expanded or altered.
5. If the use is determined to be a legal, conforming use, the Director shall determine what changes, modifications or alterations are being done to the exterior of the building or to the components of use upon the property.
6. The following changes to the exterior of the building, or to a component of use on the property, are not considered to actuate the requirement for site plan amendment review by the Planning and Zoning Commission:
 - a. Change in the exterior paint or material colors;
 - b. Change in signage;
 - c. Change in landscaping, excluding the removal of required trees or required buffers;
 - d. Expansion of the building or use by less than 10 percent or 5,000 square feet, whichever is less;
 - e. Change in the color of the roof materials; or
 - f. Change in architectural elements of an exterior wall, or roof element, that affects less than fifty percent of the wall or roof design.
7. The following changes to the exterior of the building, or to a component of use on the property, are considered to actuate the requirement for site plan amendment review by the Planning and Zoning Commission:
 - a. Change in any ingress/egress to the site;
 - b. Addition of a drive-thru lane, or addition of a 2nd drive-thru lane;
 - c. Expansion of the building or use by more than 10 percent or 5,000 square feet, whichever is less;
 - d. Change in architectural elements of an exterior wall, or roof element, that affects more than fifty percent of any wall that is being changed or to the roof design; or
 - e. Removal of more than fifty percent of any articulation elements that were part of the original site plan approval, including removal of awnings or similar features.

Issued this 2nd day of June, 2021.



James A. Cadoret, AICP
Development Services Director